

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION

MAY 17 2006

JOHN F. CORCORAN, CLERK  
BY: *[Signature]* DEPUTY CLERK

TEDDY WATSON,

Plaintiff,

v.

JO ANNE B. BARNHART,  
COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

Case No. 1:05CV00044

**OPINION**


By: James P. Jones  
Chief United States District Judge

The defendant Commissioner of Social Security has filed a timely objection to the report and recommendation of the magistrate judge in this Social Security case. The magistrate judge found that there was substantial evidence to support the administrative decision that the plaintiff Watson did not suffer from a severe mental impairment and the plaintiff has filed no objection to that finding. However, the magistrate judge recommended that the case be remanded in order to clarify the record as to whether Watson's phlebotomy treatments precluded him from performing gainful activity. It is to this finding that the Commissioner objects.

For the reasons stated by the Commissioner in her objection, I find that a remand on this ground is not necessary. The plaintiff has failed to meet his burden of proof to produce any medical evidence that having his blood drawn twice a month is disabling. For these reasons, the magistrate judge's report and recommendation will be accepted in part and

rejected in part and the Commissioner's final decision will be affirmed. A separate judgment consistent with this opinion will be entered forthwith.

DATED: May 17, 2006

  
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Chief United States District Judge